

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD DZIEDZIC

Appeal No. 2003-0115
Application 09/348,742

ON BRIEF

MAILED

JUN 18 2003

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Before COHEN, MCQUADE, and NASE, Administrative Patent Judges.

MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Edward Dziedzic appeals from the final rejection of claims 2 through 6 and 8, all of the claims pending in the application.

THE INVENTION

The invention relates to "a mount for the attachment of guy-wires or cables and the like to a stationary object such as a pole" (specification, page 2). Representative claim 8 reads as follows:

8. A stabilizer wire mount for attachment to a mounting surface on a pole by attachment bands comprising:

a base plate having a top surface and a bottom surface, said bottom surface having front and back edges;

an integral boss position substantially centrally on the top surface, and extending substantially upwardly therefrom;

a loop on the boss, the loop defining an opening therethrough for the attachment of the stabilizer wire;

at least one upwardly extending raised rib on the top surface at an appropriate distance from the boss, thereby defining a channel between the boss and the at least one raised rib for the seating of an attachment band; and

a pair of depending serrated edges on the bottom surface of the base plate, one of each pair extending downwardly proximate the front and back edges of the bottom surface for the base plate, said depending serrated edges disposed to engage the utility pole upon a tightening of the band.

THE REJECTION

Claims 2 through 6 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,098,051 to Aldridge et al. (Aldridge).

Attention is directed to the brief (Paper No. 15) and answer (Paper No. 16) for the respective positions of the appellant and examiner regarding the merits of this rejection.

DISCUSSION

Aldridge discloses several embodiments of an electrical instrument/component bracket adapted to be secured to a utility pole or the like by flexible bands. As conceded by the appellant (see pages 9 and 10 in the brief), the various bracket embodiments taught by Aldridge correspond at least generally to the stabilizer wire mount recited in the appealed claims.

Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). It is not necessary that the reference teach what the subject application teaches, but only that the claim read on something disclosed in the reference, i.e., that all of the limitations in the claim be found in or fully met by the reference. Kalman v. Kimberly Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

The examiner's analysis as to how independent claim 8 reads on Aldridge (see page 4 in the answer) is flawed on its face as it requires a combination of at least two of Aldridge's bracket embodiments (e.g., those respectively shown in Figures 13 and 15) which are mutually exclusive to meet all of the limitations in the claim. Anticipation is not established if in reading a claim on something disclosed in a reference it is necessary to pick, choose and combine various portions of the disclosure not directly related to each other by the teachings of the reference. In re Arkley, 455 F.2d 586, 587-88, 172 USPQ 524, 526 (CCPA 1972). As it is not apparent that any single bracket embodiment

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